

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. Action No. 2:19-cr-13-1
(Judge Kleeh)

JOSHUA JESSIE WHITE,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 240] AND
DENYING DEFENDANT'S SECOND MOTION TO SUPPRESS [DKT. NO. 172]**

On December 2, 2019, Defendant Joshua Jessie White ("Defendant") filed a motion to suppress physical evidence [Dkt. No. 171] and a second motion to suppress physical evidence [Dkt. No. 172]. Pursuant to 28 U.S.C. § 636, the Court referred the motions to United States Magistrate Judge Michael J. Aloï for initial review and preparation of a Report and Recommendation ("R&R"). An evidentiary hearing on the second motion to suppress was held on January 10, 2020 [Dkt. No. 223]. The Magistrate Judge recommended that the second motion to suppress be denied [Dkt. No. 240].

When considering a magistrate judge's R&R pursuant to 28 U.S.C. § 636(b)(1), the Court must review de novo those portions to which objection is timely made. Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's

recommendations to which the [defendant] does not object.” Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Here, objections to the Magistrate Judge’s R&R were due on or before February 7, 2020. To date, Defendant has not filed any objections. Accordingly, the Court reviewed the R&R for clear error.

Conclusion

Upon careful review of the above, and finding no clear error, the Court **ADOPTS** the R&R [Dkt. No. 240]. Defendant’s second motion to suppress [Dkt. No. 172] is **DENIED**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record.

DATED: May 13, 2020

/s/ Thomas S. Kleeh
THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE